

*Testimony of*

Arthur C. Johnson

*On Behalf of the*

AMERICAN **BANKERS** ASSOCIATION

*Before the*

Committee on Financial Services

United States House of Representatives

July 25, 2007



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Mr. Chairman and members of the Committee, my name is Arthur C. Johnson. I am Chairman and Chief Executive Officer of United Bank of Michigan, headquartered in Grand Rapids, Michigan. I also serve as Vice Chairman of the American Bankers Association (ABA), and am testifying today as a representative of the ABA. The ABA, on behalf of the more than two million men and women who work in the nation's banks, brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership – which includes community, regional and money center banks and holding companies, as well as savings associations, trust companies and savings banks – makes ABA the largest banking trade association in the country, representing both state and federal charters in our dual banking system.

The ABA appreciates the opportunity to present its views regarding how best to protect consumers in light of the recent United States Supreme Court decision in *Watters v. Wachovia*.<sup>1</sup> That decision, by settling the question of who has jurisdiction over operational subsidiaries of national banks, enables the banking industry to move beyond the question of *who* supervises to the question of *how best* to supervise.

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<sup>1</sup> *Watters v. Wachovia*, \_\_ U.S. \_\_, 127 S.Ct. 1559, 167 L.Ed.2d 389, 75 USLW 4176 (2007) (available at <http://www.supremecourtus.gov/opinions/06pdf/05-1342.pdf>).

The *Watters* decision was the latest in a long line of decisions, including Supreme Court decisions, that upheld the preemption authority of the OCC under the National Bank Act. *Watters*, by clarifying the law applicable to bank operating subsidiaries, helps to assure a fair and predictable legal and regulatory environment. It also helps to maintain the flexibility that state and federal regulators need in order to adapt to the constant changes that are inevitable in a dynamic and growing banking industry responding to changing customer demands and needs. Both domestically and internationally, a balanced and effective legal and regulatory environment is critical to assure the competitive banking system necessary to finance a vibrant economy. In the aftermath of the *Watters* decision, the resources of state and federal regulators now may be devoted fully and more efficiently to assuring a safe and sound industry that preserves and enhances public trust. This is a very positive development for all concerned.

Maintaining our customers' trust is core to the business of banking. No bank will be successful over the long term if it does not treat its customers well. It is therefore imperative that banks take steps to protect their customers' deposits and financial information, provide accurate settlement of financial transactions, respect consumer legal rights, and provide excellent customer service. Thus, consumer protection is a high priority for banks. Banks spend a considerable amount of time and resources to assure compliance with the law, and we are examined carefully by our primary regulator to assure that this is so.

The ABA believes enhanced cooperation between state and federal regulators to facilitate appropriate oversight of consumer protection efforts can benefit customers and financial institutions alike, drawing upon the strengths of each regulator's separate authorities.

In my testimony I would like to make the following points:

I. The dual banking system – with each state and federal governmental agency responsible for the institutions within its primary jurisdiction – is the best framework to ensure a balanced legal and regulatory environment for the efficient and effective enforcement of consumer protection laws.

II. Universality and uniformity of consumer compliance oversight is an agency priority that ABA supports, including vesting joint rulemaking authority in all the Federal banking agencies to implement Section 5 of the Federal Trade Commission Act (FTCA), governing unfair and deceptive acts or practices.

III. Consumers are best protected when banks make compliance everyone's business.

#### **I. The Dual Banking System Provides a Balanced Legal and Regulatory Framework**

The dual banking system has been enormously successful in creating an environment that encourages innovation, fosters safe and sound banking, and serves consumers well. It is a foundation upon which our banking industry is built and has served the nation well for over 140 years, creating an unsurpassed financial engine to power history's greatest economy serving the world's most prosperous citizens.

While many have observed that no one would start out to create such a banking regulatory system, it is hard to argue with its success in promoting safety and soundness and consumer confidence. The system works best when it works as intended. State and federal regulators are each responsible for oversight of distinct and well-defined groups of financial institutions, but banking agencies in both domains share the mission of regulating comprehensively to promote the vitality of the system, central to which is promoting the interests and confidence of bank customers. This division of responsibility—but unity of mission—that has been created by Congress and sanctioned by the courts enables the

regulators to use their limited resources efficiently and effectively. It also enables different governmental actors to respond to different concerns in the manner deemed most appropriate for the people and institutions within their field of responsibility.

The *Watters* case is the most recent in a long line of cases that have affirmed the dual banking system and confirmed the roles anew. We now can stop working at cross purposes and shift the focus to how the state and federal regulators can build off each other's strengths. The way has been opened for strengthening cooperation among agencies with separate jurisdictions but ***common purpose*** – to ensure that financial customers are treated fairly.

Many recent initiatives have been undertaken to assure just that. Examples of these initiatives include the following:

- In 2006 the State Liaison Committee – comprised of the Conference of State Bank Supervisors (CSBS), the American Council of State Savings Supervisors, and the National Association of State Credit Union Supervisors – was added to the Federal Financial Institutions Examination Council (FFIEC) as a voting member. This provides the states with a direct voice in all matters coming before the FFIEC.
- The Office of the Comptroller of the Currency (OCC) has an initiative underway, as discussed by Comptroller Dugan in his testimony before the Committee on Financial Services on June 13, 2007, to conduct parallel exams with state regulators of national banks and independent mortgage brokers, respectively. This approach is likely to provide the regulators with a better understanding of the roles of the various actors in the mortgage origination process and to position the regulators better to address weaknesses wherever found, including those that occur outside of the banking industry.

- The Federal Reserve Board and the Office of Thrift Supervision (OTS) announced on July 17, 2007, a joint initiative with the Federal Trade Commission, the CSBS, and the American Association of Residential Mortgage Regulators to improve the supervision of subprime mortgage lenders.<sup>2</sup> Pursuant to that initiative, the federal and state regulators will conduct targeted consumer protection compliance reviews of non-depository lenders with significant subprime mortgage operations.
- The OCC and the OTS, working with the National Association of Insurance Commissioners, have entered into cooperation and information sharing agreements with 49 state insurance regulators and the District of Columbia. These agreements require the parties to send to the appropriate regulator copies of any complaint received that relates to insurance sales. The state insurance departments will handle matters regarding insurance activities, while the OCC or OTS (as appropriate) will handle matters regarding banking or savings association activities. The parties to the agreements communicate with each other to the fullest extent possible on matters of common interest and keep each other apprised of the resolution of any complaint that is referred.
- The OCC and OTS also have entered into a model Memorandum of Understanding (MOU) with the CSBS and are now negotiating with the states to enter into MOUs directly with the state regulators.<sup>3</sup> Pursuant to those agreements, a regulator that receives a consumer complaint about an institution outside of its jurisdiction will refer

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<sup>2</sup> See <http://www.federalreserve.gov/boarddocs/press/bcreg/2007/20070717/default.htm>.

<sup>3</sup> The OCC has entered into 20 agreements with states and the Commonwealth of Puerto Rico since signing its agreement with the CSBS. The OTS agreement with CSBS was executed after the OCC agreement, and thus the OTS is earlier in the process of negotiating final agreements with the individual states.

the complaint to the appropriate agency, and the referring agency will be informed of the resolution of the complaint.

- The OCC recently supplemented the referral system with a website, at <http://www.helpwithmybank.gov>, designed to help customers figure out whether they are dealing with a national bank and then to provide assistance to those who are. The Comptroller has proposed to the other members of the FFIEC that this site be developed further into a one-stop approach to assisting all consumers regardless of the type of financial institution they use.<sup>4</sup>

Initiatives of this nature are important steps to ensure that consumers' complaints will be heard – and acted upon – by the agency with the authority and resources to address the problem.

Each governmental entity within the dual banking system has specific responsibilities with regard to enforcement. State and local governments can regulate a national bank with respect to zoning rules or tax obligations, for instance. They may not, however, regulate a federally-chartered bank or savings association or its subsidiary with respect to a law governing the business of banking. This limit on state authority clearly applies to consumer protection laws, as underscored, for example, by the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, in which Congress stated that the OCC was to enforce applicable laws regarding community reinvestment, consumer protection, fair lending, and the establishment of intrastate branches. This division of supervisory responsibility works both ways, of course. For instance, the OCC is precluded from taking action against a state bank for a violation of applicable federal law.

The ABA believes that these distinctions are appropriate. The strength of a national system of banking is that it operates under a program of uniform laws, uniformly applied. These laws can only be developed, and are best enforced, at the federal level. This ensures a consistent protection for customers of federally-chartered firms regardless of their location and avoids federal policy being made—or frustrated—in a piecemeal fashion through litigation at the state level.

Bank regulators, unlike law enforcement agencies, have many tools that enable them to exercise due regard for safety and soundness and systemic risk considerations together with enforcement responsibilities. These range from the behind-the-scenes citation of an issue in an exam report as a matter requiring attention to the public actions of issuing a cease-and-desist or civil money penalty order or even closing a bank and imposing lifetime bans from participating in banking activities. Simply put bank regulators are just as concerned about consumer protection as are law enforcement authorities, but the bank regulators are better able to achieve their objectives through an enormous array of enforcement options that allow them to meet their broader mandate for law enforcement as well as financial stability.

Moreover, the bank regulators have a complete picture of any given bank. This picture is obtained through the frequent (and in some cases continuous) examinations of banks and the regulators' complete access to all of a bank's books and records. Thus, they are in a better position than any other actor to spot and address problems early, to calibrate an enforcement response to the situation, and to place the action within the context of the overall safety and soundness of the institution and the stability of the financial system.

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<sup>4</sup> See OCC News Release 2007-73, July 17, 2007.



State Attorneys General and other law enforcement bodies do not have a safety and soundness mandate or systemic risk concerns. They are focused on questions of law and have only law-enforcement tools, such as the ability to sue, in order to achieve their objectives. As the old saying goes, when all you have is a hammer, the whole world looks like a nail. Law enforcement agencies hold, in essence, only a hammer. Yet our national financial policies require a very high regard for safety and soundness and systemic risk concerns as well.

States that identify local concerns that warrant a unique response are free to regulate in a manner they deem appropriate for the state-chartered institutions within their jurisdiction. However, it is appropriate that the federal component of the dual banking system remain subject to policies that are developed and enforced at the federal level. The consumer is then free to choose the institution that offers the products and services that best meet the consumer's needs.

It must be noted that states have very real issues arising from the institutions within their primary jurisdiction that demand their attention and enforcement resources. The most recent example of this involves the issue of subprime lending. As repeatedly noted in testimony recently provided to the House Financial Services Committee in a hearing on Improving Federal Consumer Protection in Financial Services,<sup>5</sup> many of the problems in the subprime area have arisen in institutions outside the enforcement jurisdiction of the federal bank regulators.

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<sup>5</sup> See Testimony of John C. Dugan, Comptroller of the Currency, Before the Committee on Financial Services of the U.S. House of Representatives, June 13, 2007, at 28 ("The abuses in the subprime lending business – loan flipping, equity stripping, and making subprime loans that borrowers have no realistic prospect of repaying – simply have not seeped into the national banking system."); and Testimony of Sheila C. Bair, Chairman of the Federal Deposit Insurance Corporation, Before the Committee on Financial Services of the U.S. House of Representatives, June 13, 2007, at 4 ("Another significant change in the financial system has been the increased participation by providers other than banks and thrift institutions. For example, one estimate shows that some

Before the current subprime issues there were problems with predatory lending by non-bank lenders. In commenting on an OTS proposal concerning preemption of state lending standards, a coalition of 46 state attorneys general stated:

Based on consumer complaints received, as well as investigations and enforcement actions undertaken by the Attorneys General, predatory lending abuses are largely confined to the subprime mortgage lending market and to non-depository institutions. Almost all of the leading subprime lenders are mortgage companies and finance companies, not banks or direct bank subsidiaries.<sup>6</sup>

The point is not to suggest that federal regulators have fewer issues to deal with than do state regulators, or vice versa. Rather, the point is that all regulators have demands on their resources, and the current division of labor is appropriate in light of this fact. The current system is the best approach for applying supervisory resources in the most efficient and effective manner.

Many new actors in the businesses of mortgage lending and consumer finance (for example) have thus far been able to operate subject to comparatively little supervision in many instances. Concentrating enforcement resources on the banking industry adds potentially significant burden in return for little gain while diverting resources away from industries whose customers would benefit from closer attention.

The dual banking system functions most effectively and efficiently when there is a respect for the division of regulatory authority. A misallocation of resources that creates

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52 percent of subprime mortgage originations in 2005 were carried out by companies that were not subject to examinations by a federal supervisor.”).

<sup>6</sup> Brief for Amicus Curiae State Attorneys General, *Nat'l Home Equity Mortgage Ass'n v. OTS*, Civil Action No. 02-2506 (GK) (D.D.C.) at 10-11.

redundant supervisory and enforcement authority over entities that already are heavily regulated while allowing other financial institutions to escape largely unregulated is unlikely to provide the best protection for customers. Stated another way, a system of checkers checking checkers, while leaving demonstrably troubling activity inadequately supervised, is unnecessary for an industry that depends on uniform laws uniformly applied and counterproductive from the perspective of consumer protection.

## **II. Uniformity and Vigilance of Consumer Compliance Oversight is a Federal Banking Agency Priority—and one that ABA Supports**

The application of consistent consumer protection policy has been achieved through two primary vehicles: First, the development of common standards and examination procedures in fulfillment of the mandate of Congress in establishing the Federal Financial Institutions Examination Council (FFIEC); and second, the implementation of a direct consumer complaint process to address unfair or deceptive practices in fulfillment of the mandate of Congress in Section 18 of the FTCA.<sup>7</sup> These two vehicles work in tandem to create a process of focused consumer compliance oversight and a strong supervisory expectation that banks adopt a self-correcting culture of compliance—an expectation that I and my colleagues strive in earnest to meet.

### *Coordinated Supervision through the FFIEC*

The FFIEC is charged with prescribing “uniform principles and standards for the federal examination of financial institutions...and mak[ing] recommendations to promote uniformity in the supervision of these financial institutions. The Council’s actions shall be designed to promote consistency in such examination and to insure progressive and vigilant

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<sup>7</sup> 15 U.S.C. 57a.

supervision.”<sup>8</sup> Through its Task Force on Consumer Compliance, the FFIEC fulfills its statutory purpose in the area of consumer protection by developing and issuing interagency examination procedures covering over a dozen federal consumer protection statutes—including the Truth-in-Lending Act (which, in turn, includes the Home Ownership and Equity Protection Act, frequently referred to as HOEPA), the Fair Debt Collection Practices Act, and the FTCA’s Section 5 prohibition on unfair or deceptive acts and practices as implemented by the Credit Practices Rule, to name just a few.

In addition, the FFIEC agencies have set forth common standards for arriving at a bank’s, or savings association’s, rating for consumer compliance performance. This rating stands as an identifiable grade separate and apart from the CAMELS rating so that boards of directors can hold their managements directly accountable for the quality of their institution’s compliance management programs and performance.

The banking agencies within the FFIEC have gone a step further and coordinated their examination and interpretation of the Community Reinvestment Act (CRA) regulations, taking time to make specific provision for how illegal credit practices and discriminatory conduct will adversely affect the bank’s CRA rating. Moreover, the FFIEC’s Task Force members have endorsed top-down compliance oversight so that banks and savings associations are all expected to implement consumer compliance programs that contain system controls, monitoring of performance, self-evaluation, accountability to senior management and the board, self-correcting processes, and staff training.

In execution of these uniform standards the FFIEC agencies and state banking agencies are able to invoke the enormous array of options discussed earlier. Perhaps the most

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<sup>8</sup> 12 U.S.C. 3301.

important of these is the regularity of on-site examination. On a periodic basis, FDIC examiners visit my bank and spend 3-6 weeks examining our compliance management program, as well as our track record for meeting our consumer protection obligations. In the case of some of my colleagues at much larger banks, examiners are there every business day of every business week, year-in and year-out.

*Agency Obligations and Authority under the FTCA*

The second vehicle that works to assure strong compliance oversight is the dedicated consumer complaint processes that each of the federal banking agencies has implemented in furtherance of the mandate of the FTCA's Section 18. At the June 13 hearing, each agency testified to its respective complaint processing program. These programs treat each consumer complaint as its own case receiving individualized attention. The sum and substance of these complaints and their trends are used by the agencies to focus their examination programs on potential deficiencies. In fact, in the rare case where a complaint suggests a serious breach, the agency may intervene by special examination.

The federal banking agencies' discharge of FTCA Section 18 duties does not end with complaint processing. Under that section, each agency is tasked with addressing any unfair or deceptive practices that arise. In fulfillment of this obligation, the agencies actively work to help banks and thrifts avoid practices that would be considered unfair or deceptive under section 5 of the FTCA (the "UDAP law").<sup>9</sup> In regulations,<sup>10</sup> guidance,<sup>11</sup> enforcement

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<sup>9</sup> 15 U.S.C. 45(a).

<sup>10</sup> See, e.g., 12 C.F.R. § 7.4008(c) (OCC rule incorporating Federal Trade Commission UDAP law into law governing national bank lending); 12 C.F.R. Part 227 (Federal Reserve Board rule on Unfair or Deceptive Acts or Practices); 12 C.F.R. Part 535 (OTS rule on Prohibited Consumer Credit Practices); and 12 C.F.R. § 563.27 (OTS rule on Advertising).

<sup>11</sup> See, e.g., Interagency Guidance on Nontraditional Mortgage Product Risk, 72 Fed. Reg. 37569 (July 10, 2007); Joint Guidance on Overdraft Protection Programs, 70 Fed. Reg. 9127 (Feb. 24, 2005); Joint Federal Reserve

actions,<sup>12</sup> speeches,<sup>13</sup> and other documents,<sup>14</sup> the agencies have repeatedly punctuated their communications to banks and savings associations with references to the UDAP law. What is as important as the breadth of transactions that the regulators have addressed is the fact that not a single one of the federal banking agencies has shied away from asserting its authority to examine for compliance with, or enforce, the UDAP law under the common authority of Federal Deposit Insurance Act Section 8(i)<sup>15</sup> and other enabling legislation.

Nevertheless, there is an historical anomaly in the grant of regulatory authority for UDAP enforcement. Although each agency is directly required to implement a consumer complaint process and to address any resulting claims of unfair or deceptive practices, only the Federal Reserve Board, OTS, and National Credit Union Administration (NCUA) have explicit rulemaking authority to implement the UDAP law.<sup>16</sup> The OCC and FDIC do not. While each agency has asserted the authority to enforce the UDAP statute, arguably not every agency has the authority to define in advance through a rulemaking what practices are unfair or deceptive.

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Board and Federal Deposit Insurance Corporation Guidance on Unfair or Deceptive Acts or Practices by State-Chartered Banks (March 11, 2004); FDIC Guidance on Unfair or Deceptive Acts or Practices, FIL-57-2002 (May 30, 2002); OCC Advisory Letter 2002-3 (March 22, 2002) (informing national banks and their operating subsidiaries about the risks of engaging in unfair or deceptive acts or practices); Federal Reserve Board Staff Guidelines on Credit Practices Rule (effective Jan. 1, 1986)

<sup>12</sup> *See, e.g.*, Dugan Testimony, at Appendix B (listing 10 public enforcement actions brought by the OCC under the FTC Act).

<sup>13</sup> *See, e.g.*, Remarks by Julie L. Williams Before the Annual Meeting of the Cleveland Neighborhood Housing Services (June 15, 2004); Remarks by Julie L. Williams Before the Mid-Atlantic Bank Compliance Conference, Annapolis, MD (March 22, 2002)

<sup>14</sup> *See, e.g.*, Letter from Alan Greenspan, Chairman of the Federal Reserve Board, to The Honorable John J. LaFalce, May 30, 2002; FDIC Compliance Handbook, Section VII: Abusive Practices; Federal Trade Commission Act, Section 5 Unfair or Deceptive Acts or Practices; OTS Examination Handbook, Section 1355 “Consumer Affairs Laws and Regulations: Unfair or Deceptive Act,” (Dec. 1999).

<sup>15</sup> 12 U.S.C. 1818(i).

<sup>16</sup> 15 U.S.C. 57a(f)(1).

To address this anomaly, we support vesting all of the federal banking agencies with UDAP rule-writing authority to be exercised *jointly*. Only by a grant of *joint* authority can we maintain uniformity in any formal regulatory action to impose specific UDAP standards on the different components of the banking system.

Just as it is anomalous to vest rulemaking authority in some but not all of the banking agencies, it would be anomalous – and harmful – for the five federal agencies that are members of the FFIEC to adopt different standards of what is an unfair or deceptive act or practice. An act becomes no more or less unfair or deceptive by virtue of the actor’s type of charter. Thus, there is no reason to vest the banking regulators with authority to initiate individual rulemakings under the UDAP law.

Indeed, there is a good reason *not* to vest the agencies with *independent* rulemaking authority under the UDAP law. Consumers should receive the same level of fair treatment at all financial institutions. Weaker consumer protection standards at only some financial institutions can taint the entire industry, while overly prescriptive standards imposed on only some institutions result in unnecessary burdens on the affected entities. Neither outcome is desirable. We can be certain that both will be avoided only by the joint exercise of rulemaking authority.

To avoid inconsistent treatment of consumers in financial institutions outside the jurisdiction of the FFIEC agencies, states should fund a corresponding supervisory program for state-chartered, non-bank financial firms by a system of fees comparable to the fees that both state and federally-chartered banks pay for supervision. Identifying unfair or deceptive acts or practices for all financial institutions can benefit not only consumers but also the institutions that serve them by providing clear standards of conduct. This also would

safeguard the banking industry from being tainted by practices that occur outside the industry. Moreover, to the extent that the rules are effectively applied to all lenders, then we would avoid the perverse result of a strong bank supervisory program driving business to lower-cost/lightly supervised firms operating outside of that program.

The problems in the subprime market are a prime example of the dangers of business moving to the unregulated market. Bankers across the country have seen numerous examples of bank customers, or potential customers, being steered to unsafe mortgages by real estate agents and mortgage brokers. In many cases bankers told their customers that the banks could not match the initial monthly payments on these mortgages but that the mortgages were going to reset, only to have the customers ignore the danger. And yet, bankers are concerned that solutions that are being proposed will not apply, or not apply effectively, to non-banks. This is the inherent weakness in the recent guidance from the regulators, which we otherwise support.

There are considerable challenges in trying to identify a practice that is inherently unfair or deceptive. Frequently, the determination of whether a practice is objectionable can be made reliably only after considering the context of a particular transaction. Certain loan features may impose additional obligations on a consumer in exchange for a lower interest rate. Other features, while perhaps less attractive than those offered by another lender, may be perfectly legitimate as long as they are adequately disclosed. It must be remembered that the abuse is found in the practice rather than the product. Any traditional product can become a vehicle for abuse, and many innovative products have been proven to be powerful means of serving the special needs of customers and promoting economic inclusion.



Thus, the determination of what is unfair or deceptive needs to be made carefully so as to restrain abusive practices and not to curtail products that can be beneficial under a variety of circumstances.

### **III. Consumers are best protected when banks make compliance everyone's business.**

Before closing, I want to emphasize how seriously the ABA members and the industry that I represent take our responsibilities to deliver compliant services and products and to treat our customers fairly in the process. Take my bank as an example. Upper management and our board expect all our employees to treat all our customers not only in accordance with the law but also in accordance with our business ethics. To that end, we have a compliance training program that is required for all of our employees – not just our compliance officer. In addition, compliance management plays a role in every operational aspect of our bank that comes into contact with customers—from the marketing of products, through account opening and credit administration, to handling personal information and monitoring for financial crime. Further, we hold our employees accountable for meeting their obligations. This is especially true for our compliance officer—who in my case happens to be my son.

But the important thing to realize is that our bank is typical of the thousands of others that invest heavily in a compliance culture—each with dedicated compliance professionals who take great pride and apply tremendous effort to assure that consumers in the dual banking system are getting treated fairly. It is rare to find the employees in any organization who are satisfied that they are getting the resources they need. Yet when ABA recently conducted its survey of compliance officers in banks of all sizes and asked them whether their boards consistently provided them the support they required, fully 93 percent of the over 400 respondents replied, “Yes.”

As former Comptroller Eugene Ludwig said at the recent annual ABA Regulatory Compliance Conference attended by more than 1,100 industry professionals, the principles of a first-class compliance program are all aimed at “getting it right the first time.” This is ultimately the aspiration of our entire industry, and our compliance programs are designed to correct our course when we stray—even before the examiner shows up or a consumer complaint is received. This is what we mean by self-identifying and self-correcting compliance management. No one is perfect. But no industry tries harder to get it right.

Some bankers say compliance is everyone’s job, and it is. But I like to say that compliance is everyone’s business—because each time we have a chance to serve a customer we have an opportunity to show them just how much we respect them and deserve their trust and their business. This is the cornerstone of successful banking and responsible customer service, and it is what will enable us to continue meeting our customer’s needs over the long-term.

## **Conclusion**

Our dual banking system has served the country well. The state and federal regulators have been instrumental in preserving the public trust that is so vital to a healthy banking system. Current efforts at cooperation between the state and federal regulators are just the most recent example of how the dual banking system can work to protect consumers. Through information sharing agreements, joint examinations, and referrals of customers to the appropriate regulator, everyone – including the states, the federal government, and consumers – can be assured that a consumer complaint will be heard by the appropriate agency and that the agency will be accountable for its actions. We have, in short, an

appropriate division of labor inherent in our dual banking system. Our recommendations are designed to build upon and reinforce the strengths of that system.

We also have a federal system that has provided extensive – and uniform – protection for consumers. The fair treatment of consumers does not vary by charter, nor should it. The federal bank regulators have acted in a consistent manner to protect individuals, and the same consistency should be applied to the implementation of the UDAP law.